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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

KRISTAL D. SCHERER, an individual, on  
 behalf of herself individually, all others  
 similarly situated, and on behalf of other  
 members of the general public;

Plaintiffs,

v.

EDDIE BAUER, INC. a Delaware corporation,  
 and DOES 1 to 10, inclusive,

Defendants.

CASE NO. 2:07-cv-2270-JM-AJB

[Assigned to the Honorable Jeffrey T.  
 Miller]

**PROOF OF SERVICE**

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 1441 State Street, San Diego, California 92101.

On February 26, 2008, I served the copies of the following document(s) described as:

(1) **PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT EDDIE BAUER, INC.'S PARTIAL MOTION TO DISMISS SECOND AMENDED COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6).**

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X (BY MAIL): I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Diego, California. I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service pursuant to which practice the correspondence will be deposited with the U.S. Postal Service this same day in the ordinary course of business (C.C.P. Section 1013(a); 2015.5):

Kalia C. Petmecky, Esq.  
Akin, Gump, Strauss, Hauer & Feld, LLP  
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Dallas, Texas 75201

*Attorneys for Defendant Eddie Bauer, Inc.*

*Attorneys for Defendant Eddie Bauer, Inc.*

X (BY FEDERAL EXPRESS): I caused the above-described documents to be delivered via overnight delivery (Federal Express), by placing a copy in a separate FEDERAL EXPRESS mailer and attaching a completed Federal Express air bill, with Standard Overnight delivery/Priority Delivery requested, and caused said mailer to be deposited in the Federal Express collection box at San Diego, California.

\_\_\_\_ (BY PERSONAL SERVICE): I caused such envelope to be delivered by hand to the offices of the addressee:

\_\_\_\_ (BY FACSIMILE): I caused such document to be served on all parties to this action via facsimile at the numbers indicated on the attached service list (C.C.P. Section 1012.5).

\_\_\_\_ (State): I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

X (Federal): I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 26, 2008, at San Diego, California.

  
\_\_\_\_\_  
Lori Hirayama